**Section 9100.90 Insurance Coverage: Compliance**

a) Employers to Insure Payment of Compensation

Any employer that is subject to Section 3 of the Act or elects to provide and pay the compensation provided for in the Workers' Compensation Act (the Act) or the Workers’ Occupational Diseases Act (WODA) shall insure payment of that compensation as required by Section 4(a) of the Act/WODA by obtaining approval from the Commission to operate as a self-insurer or by insuring its entire liability to pay the compensation using an insurance carrier authorized, licensed or permitted to do such insurance business in Illinois.

b) Failure to Insure Payment of Compensation Liability; Penalty

Penalties may be assessed by the Commission after reasonable notice and hearing in accordance with Section 4 of the Act and Section 4 of WODA.

c) Hearings

1) Notice of Hearing; Locations

A) A matter under this subsection (c) is commenced by the Department of Insurance by service of a Notice of Hearing upon the employer at least 30 days prior to the time fixed for hearing.

B) Service will be accomplished in accordance with the following:

i) by personal service as set forth in the Illinois Code of Civil Procedure [735 ILCS 5/Art. II];

ii) by any method of United States registered or certified mail addressed to the employer at the last known address or to the employer's representative; or

iii) if service using the methods in subsections (c)(1)(B)(i) and (ii) is unsuccessful, as otherwise ordered by the Commission.

C) The Notice of Hearing shall be a written statement setting forth, but not limited to, the following information:

i) the name and address of the employer;

ii) the time, date, and place of hearing;

iii) the name of the Commissioner;

iv) a statement of the section of the statute alleged to be violated, periods of non-compliance, and the penalty that may be imposed; and

v) a statement that failure to appear at the hearing, if no continuance has been obtained prior to the hearing, shall constitute a default and shall result in a finding that there has been a knowing and willful failure of the employer to insure the employer’s liability to pay compensation in accordance with Section 4(a) of the Act or to comply with an Order of the Commission under Section 4(c) and an assessment of penalties under Section 4(d).

D) The hearing shall be set at a site designated by the assigned Commissioner.

2) Assignment

A) In all cases in which the employer is principally located in Cook County, a matter to be scheduled for hearing under this Section will be randomly assigned to a Commissioner.

B) In all other cases, a matter to be scheduled for hearing under this Section will be assigned to the Commissioner who serves the territory within which the employer is principally located.

3) Conduct of Hearings

A) At the hearing, a representative of the Department of Insurance shall have the opportunity to introduce evidence, to call and examine witnesses, and to cross-examine witnesses. The employer or its attorney shall be given the opportunity to show that there has been compliance with Section 4(a) of the Act or an Order of the Commission under Section 4(c) or show cause why compliance has not been accomplished. The employer or its attorney shall have the opportunity to introduce evidence, to call and examine witnesses, and to cross-examine witnesses. The representative of the Department of Insurance shall have the right of rebuttal.

B) *The Commission or any member of the Commission shall have the power to administer oaths, to subpoena and examine witnesses, and to issue subpoenas duces tecum requiring the production of such books, papers, records, or documents as may be evidence to determine the issue* of non-compliance. (Section 16 of the Act)

C) The Illinois Rules of Evidence and Article VIII of the Code of Civil Procedure [735 ILCS 5/Art. VIII] shall apply except to the extent they conflict with the Workers' Compensation Act, the Workers' Occupational Diseases Act, or the Rules Governing Practice Before the Workers' Compensation Commission (50 Ill. Adm. Code: Chapter VI).

D) A certification from an employee of the National Council on Compensation Insurance stating that no policy information page has been filed in accordance with Section 9100.20 shall be deemed prima facie evidence of that fact.

E) A certification from an employee of the Commission stating that an employer has not been approved as a self-insurer shall be deemed prima facie evidence of that fact.

d) Decision

The Commission, after the hearing is concluded, shall issue a decision that includes:

1) the findings of the Commission;

2) when applicable, the dates of failure to insure and the amount of penalty assessed for each day;

3) the payment procedures provided in subsection (e); and

4) a statement of the conditions for a judicial review of the Commission's decision in accordance with the requirements of 50 Ill. Adm. Code 9060.

e) Payment Procedures

When the Commission assesses a penalty against an employer in accordance with Section 4(d) of the Act or WODA, payment shall be made according to the following procedure:

1) Payment of the penalty shall be made by certified check or money order made payable to the Illinois Workers' Compensation Commission or by an electronic format prescribed by the Commission and accepted by the Illinois Office of the Comptroller.

2) Payment shall be mailed or presented within 30 days after the final Order of the Commission or the order of the court on review after final adjudication. Payments submitted by mail shall be sent to:

Workers' Compensation Commission

Fiscal Department

69 West Washington Street

Suite 900

Chicago, Illinois 60602.

f) Work-Stop Order

1) Failure to Insure Payment of Compensation Liability; Work-Stop Order

When the panel has issued a decision under subsection (f)(5), the Commission may issue a Work-Stop Order on an employer requiring the cessation of all business operations at the employer's places of employment or job sites.

2) Hearings, Notice, Locations

A) A matter under this subsection (f) is commenced by the Department of Insurance’s Insurance Compliance Division by service of a Notice of Work-Stop Hearing upon an employer at least 5 days prior to the time fixed for hearing.

B) Service shall be accomplished in accordance with the following:

i) by personal service as set forth in the Illinois Code of Civil Procedure [735 ILCS 5/Art. II];

ii) by any method of United States registered or certified mail addressed to the employer at the last known address or to the employer's representative;

iii) by posting a copy of the Notice of Work-Stop Hearing at the entrance of the employer's places of employment or in a prominent place at the job sites; or

iv) if service using the methods in subsections (f)(2)(B)(i) through (iii) is unsuccessful, as otherwise ordered by the Commission.

C) The Notice of Work-Stop Hearing shall set forth the following information:

i) The name and address of the employer;

ii) The time, date, and place of hearing;

iii) A statement of the Section of the statute alleged to be violated, periods of non-compliance, and that a Work-Stop Order may be issued;

iv) A statement that failure to appear at the hearing shall constitute a default and shall result in a finding that:

• there has been a knowing failure of the employer to provide coverage required by Section 4(a) of the Act;

• the failure to insure is deemed an immediate serious danger to public health, safety and welfare; and

• a Work-Stop Order shall be issued by the Commission hearing panel at the close of evidence.

3) Assignments

A) A matter to be scheduled for a Work-Stop Order hearing in Chicago shall be randomly assigned to any available Commissioner.

B) A matter to be scheduled for a Work-Stop Order hearing in Springfield shall be assigned to a Commissioner and scheduled at the Commissioner’s next available review date.

C) The hearing shall be held within 7 days after the date of the Notice of Work-Stop Hearing.

4) Hearings under this subsection (f) shall be conducted in accordance with subsection (c)(3).

5) Decision

A) A panel of 3 Commissioners (one member representing the employing class, one member representing the employee class, and one member representing neither the employing or employee class) shall issue a decisionat the close of the hearing that shall include:

i) The findings of the Commission;

ii) The dates of failure to insure;

iii) A statement of the conditions for a judicial review of the Commission's decision in accordance with the requirements of 50 Ill. Adm. Code 9060.

B) If the panel's decision finds that the *employer has knowingly failed to provide the* workers’ compensation *coverage required by Section (4)(a) of the Act, that failure is* statutorily *deemed an immediate serious danger to public health, safety and welfare justifying service by the Commission of a Work-Stop Order* under subsection (f)(1). (Section 4(d) of the Act)

6) Issuance and Posting of Work-Stop Order

A) A Work-Stop Order shall take effect immediately upon issuance by the Commission.

B) Posting of Work-Stop Order

i) Upon taking effect, the Commission shall direct the Department of Insurance to post a Notice of Work-Stop Order at the employer's places of employment or job sites reflecting the decision of the Commission.

ii) The Notice of Work-Stop Order shall be in the form of a sign of sufficient size and visibility to serve as notice to the public or persons at or entering the employer's places of employment or job sites that a Work-Stop Order is in effect. The notice shall be affixed to the employer's places of employment or job sites in any manner possible, including, but not limited to, windows, doors, and fencing.

iii) *Upon request by the Commission, any law enforcement agency in the State shall render assistance to the Commission to carry out the provision of Section 4(d) of the Act, including, but not limited to, preventing any employee from remaining at the employer's place of employment after a Work-Stop Order has taken effect.* (Section 4(d) of the Act)

7) Release of Work-Stop Order

A) A Work-Stop Order shall remain in effect until the Commission issues a Release of the Work-Stop Order upon a finding that the employer is in compliance with the workers' compensation insurance coverage requirements of Section 4(a) of the Act. An employer may request a Release of the Work-Stop Order by demonstrating compliance bysubmitting a copy of the policy information page issued by an insurance carrier (see Section 9100.20) and proof of payment of premium for at least 90 days. The documentation provided must be to the Commission's satisfaction.

B) Release of a Work-Stop Order does not relieve the employer or officers of any fines, penalties or decision that may be assessed for prior noncompliance periods.

g) Emergency Work-Stop Order

1) *If a business is declared to be extra hazardous, as defined in Section 3 of the Act, a Commissioner may issue an Emergency Work-Stop Order requiring the cessation of all business operations of such employer at the place of employment or job site while awaiting the ruling of the Commission.*

2) *A Commissioner may issue an Emergency Work-Stop Order ex parte, prior to holding a hearing.* (Section 4(d) of the Act)

3) The Notice of Emergency Work-Stop Hearing shall set forth the following information:

A) The name and address of the employer;

B) The time, date, and place of hearing;

C) A statement of the Section of the statute alleged to be violated, periods of non-compliance, and that an Emergency Work-Stop Order has been issued;

D) A statement that failure to appear at the hearing shall constitute a default and shall result in a finding that:

i) there has been a knowing failure of the employer to provide coverage required by Section 4(a) of the Act;

ii) the failure to insure is deemed an immediate serious danger to public health, safety, and welfare; and

iii) a Work-Stop Order shall be issued by the Commission hearing panel at the close of evidence.

4) Assignments

A) A matter to be scheduled for an Emergency Work-Stop Order hearing in Chicago shall be randomly assigned to any available Commissioner.

B) A matter to be scheduled for an Emergency Work-Stop Order hearing in Springfield shall be assigned to a Commissioner at the Commissioner’s next available review date or any other time at the discretion of the Commissioner.

C) The hearing shall be held within 7 days after the date of the Notice of Emergency Work-Stop Hearing.

5) Hearings under this subsection (g) shall be conducted in accordance with subsection (c)(3).

6) Issuance and Posting of Emergency Work-Stop Order

A) An Emergency Work-Stop Order shall take effect immediately upon issuance by the Commission.

B) Posting of Emergency Work-Stop Order

i) Upon issuing an Emergency Work-Stop Order, the Commission shall issue a Notice of Emergency Work-Stop Hearing to be posted by the Department of Insurance at the employer’s places of employment and job sites.

ii) The Notice of Emergency Work-Stop Order shall be in the form of a sign of sufficient size and visibility to serve as notice to the public or persons at or entering the employer's places of employment or job sites that an Emergency Work-Stop Order is in effect. The notice shall be affixed to the employer's places of employment or job sites in any manner possible, including, but not limited to, windows, doors and fencing.

iii) *Upon request by the Commission, any law enforcement agency in the State shall render assistance to the Commission to carry out the provision of Section 4(d) of the Act, including, but not limited to, preventing any employee from remaining at the employer's place of employment after an Emergency Work-Stop Order has taken effect.* (Section 4(d) of the Act)

7) Release of Emergency Work-Stop Order

A) An Emergency Work-Stop Order shall remain in effect until the close of the Emergency Work-Stop Hearing or when the Commission issues a Release of the Emergency Work-Stop Order upon a finding that the employer is in compliance with the workers' compensation insurance coverage requirements of Section 4(a) of the Act. An employer may request a Release of the Emergency Work-Stop Order by demonstrating compliance by submitting a copy of the policy information page issued by an insurance carrier (see Section 9100.20) and proof of payment of premium for at least 90 days. The documentation provided must be to the Commission's satisfaction.

B) Release of an Emergency Work-Stop Order does not relieve the employer or officers of the terms or mandates of any decisions of the Commission or any fines or penalties that may be assessed for prior noncompliance periods.

(Source: Amended at 47 Ill. Reg. 6166, effective April 13, 2023)